

Introduced by Senator Kehoe
(Coauthor: Assembly Member Lieu)

February 22, 2008

An act to add Division 16.3 (commencing with Section 26301) to the Public Resources Code, relating to energy efficiency and carbon reduction, by providing funds necessary therefor through an election for the issuance and sale of bonds of the State of California and for the handling and disposition of those funds, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1670, as introduced, Kehoe. Energy efficiency and carbon reduction.

Existing law provides various funding sources for energy conservation and efficiency projects, renewable energy generation, and related purposes.

This bill, subject to voter approval at the November 4, 2008, statewide general election, would enact the Energy Efficiency and Carbon Reduction State Building Trust Fund of 2008 to authorize \$2 billion of state general obligation bonds for implementing programs to reduce the energy purchased by state entities for state-owned and long-term leased buildings; to assist state entities in retrocommissioning and recommissioning state funded buildings with the goal of assuring energy and resource consuming equipment are installed and operated at optimal efficiency; and to assist schools in financing energy efficiency measures consistent with the Green Building Action Plan.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Division 16.3 (commencing with Section 26301)
2 is added to the Public Resources Code, to read:

3
4 DIVISION 16.3. ENERGY EFFICIENCY AND CARBON
5 REDUCTION STATE BUILDING TRUST FUND ACT OF 2008

6
7 CHAPTER 1. GENERAL PROVISIONS
8

9 26301. This division shall be known as the Energy Efficiency
10 and Carbon Reduction State Building Trust Fund Act of 2008.

11 26302. As used in this division, the following terms have the
12 following meanings:

13 (a) "Board" means the ____ for programs administered by the
14 ____.

15 (b) "Committee" means the Energy Efficient State Building
16 Finance Committee created pursuant to Section 26306.

17 (c) "Fund" means the Energy Efficiency and Carbon Reduction
18 State Building Trust Fund of 2008 created pursuant to Section
19 26303.

20
21 CHAPTER 2. THE ENERGY EFFICIENCY AND CARBON REDUCTION
22 STATE BUILDING TRUST FUND AND PROGRAM
23

24 26303. (a) The Energy Efficiency and Carbon Reduction State
25 Building Trust Fund of 2008 is hereby created in the State
26 Treasury. The proceeds of bonds sold pursuant to this division
27 shall be deposited in the funds to be administered by the ____, and
28 shall be used to fund the energy efficiency and carbon
29 reduction-related programs described in this chapter over the course
30 of 20 years.

31 (b) Notwithstanding Section 13340 of the Government Code,
32 the money in the fund shall be continuously appropriated to the
33 ____ to be expended in implementing the programs specified in
34 the Governor's Executive Order S-20-04 that includes all of the
35 following:

1 (1) To reduce the amount of energy purchased by state entities
2 for all state-owned and long-term leased buildings through the
3 implementation of all cost-effective, operational, and efficiency
4 measures, including renewable energy technologies, with a goal
5 to reduce energy consumption by at least 20 percent by 2015.

6 (2) To assist state entities in retrocommissioning and
7 recommissioning, including retrocommissioning and energy
8 efficiency studies, all state-funded buildings with the goal of
9 assuring energy and resource consuming equipment are installed
10 and operated at optimal efficiency. Priority shall be given to
11 funding those buildings over 50,000 square feet.

12 (3) To assist schools, including, but not limited to, public
13 elementary and secondary schools, universities in the University
14 of California and California State University systems, and
15 community colleges, in financing energy efficiency measures
16 consistent with the guidelines developed pursuant to the Green
17 Building Action Plan that accompanies the Governor's Executive
18 Order S-20-04.

19 (c) The Legislature may, from time to time, amend the
20 provisions of law related to programs to which funds are, or have
21 been, allocated pursuant to this division for the purpose of
22 improving the efficiency and effectiveness of the program, or for
23 the purpose of furthering the goals of the program.

24
25 CHAPTER 3. FISCAL PROVISIONS
26

27 26304. Bonds in the total amount of two billion dollars
28 (\$2,000,000,000), not including the amount of any refunding bonds,
29 or so much thereof as is necessary, may be issued and sold to
30 provide a fund to be used for carrying out the purposes expressed
31 in this division and to reimburse the General Obligation Bond
32 Expense Revolving Fund pursuant to Section 16724.5 of the
33 Government Code. The bonds, when sold, shall be and constitute
34 a valid and binding obligation of the State of California, and the
35 full faith and credit of the State of California is hereby pledged
36 for the punctual payment of both the principal of, and interest on,
37 the bonds as the principal and interest become due and payable.

38 26305. The bonds authorized by this division shall be prepared,
39 executed, issued, sold, paid, and redeemed as provided in the State
40 General Obligation Bond Law (Chapter 4 (commencing with

1 Section 16720) of Part 3 of Division 4 of the Government Code),
2 except subdivision (a) of Section 16727 of the Government Code
3 to the extent that it is inconsistent with this division, and all of the
4 other provisions of that law as amended from time to time apply
5 to the bonds and to this division and are hereby incorporated in
6 this part as though set forth in full in this division.

7 26306. (a) The Energy Efficient State Building Finance
8 Committee is hereby created for the purpose of authorizing the
9 issuance and sale, pursuant to the State General Obligation Bond
10 Law, of the bonds authorized by this division. For purposes of this
11 division, the Energy Efficient State Building Finance Committee
12 is “the committee” as that term is used in the State General
13 Obligation Bond Law. The committee consists of the Controller,
14 the Treasurer, the Director of Finance, the Chair of the State Energy
15 Resources Conservation and Development Commission, and the
16 President of the Public Utilities Commission, or their designated
17 representatives. The Treasurer shall serve as the chairperson of
18 the committee. A majority of the committee may act for the
19 committee.

20 (b) The committee may adopt guidelines establishing
21 requirements for administration of its financing programs to the
22 extent necessary to protect the validity of, and tax exemption for,
23 interest on the bonds. The guidelines shall not constitute rules,
24 regulations, orders, or standards of general application and are not
25 subject to Chapter 3.5 (commencing with Section 11340) of Part
26 1 of Division 3 of Title 2 of the Government Code.

27 (c) The committee may adopt guidelines to carry out the
28 purposes specified in Chapter 2 (commencing with Section 26303)
29 and may consider a portfolio approach to funding projects to
30 maximize the financial as well as environmental benefits of
31 projects. The committee shall develop performance and oversight
32 criteria to assess the energy savings derived from funded projects.
33 The committee shall perform oversight of projects to report on and
34 ensure projects are built on-time and on-budget, and that projects
35 produce promised environmental and financial benefits. For
36 purposes of complying with this subdivision, the committee shall
37 use the staff of the California Alternative Energy and Advanced
38 Transportation Financing Authority created pursuant to Section
39 26004.

1 (c) For the purposes of the State General Obligation Bond Law,
2 the ____ is designated the “board” for programs administered by
3 ____.

4 26307. Upon request of the board stating that funds are needed
5 for purposes of this division, the committee shall determine whether
6 or not it is necessary or desirable to issue bonds authorized pursuant
7 to this division in order to carry out the actions specified in Chapter
8 2 (commencing with Section 26303), and if so, the amount of
9 bonds to be issued and sold. Successive issues of bonds may be
10 authorized and sold to carry out those actions progressively, and
11 it is not necessary that all of the bonds authorized to be issued be
12 sold at any one time. Bonds may bear interest subject to federal
13 income tax.

14 26308. There shall be collected annually, in the same manner
15 and at the same time as other state revenue is collected, in addition
16 to the ordinary revenues of the state, a sum in an amount required
17 to pay the principal of, and interest on, the bonds each year. It is
18 the duty of all officers charged by law to perform any duty in
19 regard to the collections of the revenues to do and perform each
20 and every act that is necessary to collect that additional sum.

21 26309. Notwithstanding Section 13340 of the Government
22 Code, there is hereby appropriated from the General Fund in the
23 State Treasury, for the purposes of this division, an amount that
24 will equal the total of the following:

25 (a) The sum annually necessary to pay the principal of, and
26 interest on, bonds issued and sold pursuant to this division, as the
27 principal and interest become due and payable.

28 (b) The sum necessary to carry out Section 26311, appropriated
29 without regard to fiscal years.

30 26310. The board may request the Pooled Money Investment
31 Board to make a loan from the Pooled Money Investment Account,
32 including other authorized forms of interim financing that include,
33 but are not limited to, commercial paper, in accordance with
34 Section 16312 of the Government Code, for purposes of this
35 division. The amount of the request shall not exceed the amount
36 of the unsold bonds that the committee, by resolution, has
37 authorized to be sold for the purpose of this division, less any
38 amount withdrawn pursuant to Section 26211. The board shall
39 execute any documents as required by the Pooled Money
40 Investment Board to obtain and repay the loan. Any amount loaned

1 shall be deposited in the fund to be allocated in accordance with
2 this division.

3 26311. For purposes of carrying out this division, the Director
4 of Finance may authorize the withdrawal from the General Fund
5 of an amount not to exceed the amount of the unsold bonds that
6 have been authorized by the committee to be sold for the purposes
7 of carrying out this division. Any amounts withdrawn shall be
8 returned to the General Fund, plus the interest that the amounts
9 would have earned in the Pooled Money Investment Account, from
10 money received from the sale of bonds for the purposes of carrying
11 out this division.

12 26312. The bonds may be refunded in accordance with Article
13 6 (commencing with Section 16780) of Chapter 4 of Part 3 of
14 Division 4 of Title 2 of the Government Code, which is a part of
15 the State General Obligation Bond Law. Approval by the voters
16 of the state for the issuance of bonds described in this division
17 includes the approval of issuance of any refunding bonds issued
18 to refund any bonds originally issued under this division or any
19 previously issued refunding bonds.

20 26313. Notwithstanding any provisions in the State General
21 Obligation Bond Law, the maximum of any bonds authorized by
22 this division shall not exceed 30 years from the date of each
23 respective series. The maturity of each series shall be calculated
24 from the date of each series.

25 26314. The Legislature hereby finds and declares that,
26 inasmuch as the proceeds from the sale of bonds authorized by
27 this division are not “proceeds of taxes” as that term is used in
28 Article XIII B of the California Constitution, the disbursement of
29 these proceeds is not subject to the limitation of that article.

30 26315. Notwithstanding any other provision of this division,
31 or of the State General Obligation Bond Law, if the Treasurer sells
32 bonds pursuant to this division that include a bond counsel opinion
33 to the effect that the interest on the bonds is excluded from gross
34 income for federal tax purposes, subject to designated conditions,
35 the Treasurer may maintain separate accounts for the investment
36 of bond proceeds and for the investment of earnings on those
37 proceeds. The Treasurer may use or direct the use of those proceeds
38 or earnings to pay any rebate, penalty, or other payment required
39 under federal law or take any other action with respect to the
40 investment and use of those bond proceeds required or desirable

1 under federal law to maintain the tax-exempt status of those bonds
2 and to obtain any other advantage under federal law on behalf of
3 the funds of this state.

4 26316. All money deposited in the fund that is derived from
5 premium and accrued interest on bonds sold shall be reserved in
6 the fund and shall be available for transfer to the General Fund as
7 a credit to expenditures for bond interest and, as to premium only,
8 to pay costs of issuance of the bonds.

9 SEC. 2. Section 1 of this act shall take effect only upon the
10 adoption by the voters of the Energy Efficiency and Carbon
11 Reduction State Building Trust Fund of 2008, as set forth in Section
12 1 of this act.

13 SEC. 3. Section 1 of this act shall be submitted to the voters
14 at the November 4, 2008, statewide general election in accordance
15 with provisions of the Government Code and the Elections Code
16 governing the submission of a statewide measure to the voters.

17 SEC. 4. (a) Notwithstanding any other provision of law, all
18 ballots of the election shall have printed thereon and in a square
19 thereof, the words: "Energy Efficiency and Carbon Reduction
20 State Building Trust Fund of 2008," and in the same square under
21 those words, the following in 8-point type: "This act provides for
22 a bond issue of two billion dollars (\$2,000,000,000) to provide
23 funds for a Energy Efficiency and Carbon Reduction State Building
24 program." Opposite the square, there shall be left spaces in which
25 the voters may place a cross in the manner required by law to
26 indicate whether they vote for or against the act.

27 (b) Notwithstanding Sections 13247 and 13281 of the Elections
28 Code, the language in subdivision (a) shall be the only language
29 included in the ballot label for the condensed statement of the
30 ballot title, and the Attorney General shall not supplement, subtract
31 from, or revise that language, except that the Attorney General
32 may include the financial impact summary prepared pursuant to
33 Section 9087 of the Elections Code and Section 88003 of the
34 Government Code.

35 (c) Where the voting in the election is done by means of voting
36 machines used pursuant to law in a manner that carries out the
37 intent of this section, the use of the voting machines and the
38 expression of the voters' choice by means thereof are in compliance
39 with this section.

1 SEC. 5. This act is an urgency statute necessary for the
2 immediate preservation of the public peace, health, or safety within
3 the meaning of Article IV of the Constitution and shall go into
4 immediate effect. The facts constituting the necessity are:

5 In order for the bond act in Section 1 of this act to be submitted
6 to the voters at the November 4, 2008, statewide general election,
7 it is necessary for this act to take effect immediately.